

June 9, 2025

VIA ECF

Honorable Michael E. Farbiarz
United States District Judge
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Newark, New Jersey 07101

Re: *Khalil v. Trump, et al.*, No. 2:25-cv-1963 (MEF) (MAH)

Dear Judge Farbiarz,

Mr. Khalil submits this letter in response to the Court's June 5, 2025 Text Order (ECF 282) regarding the necessity of a hearing to resolve material factual disputes. No such hearing is required on the current record before the Court.

The Third Circuit has “long recognized that a preliminary injunction may issue without a hearing, if the evidence submitted by both sides does not leave unresolved any relevant factual issue.” *Schrader v. Dist. Att’y of York Cnty.*, 74 F.4th 120, 126 (3d Cir. 2023) (cleaned up). In this case, although the Court's Order expressly invited Respondents to submit evidence “contest[ing] the accuracy or reliability” of Petitioner's factual submissions (ECF 281), they chose not to do so. Respondents have failed to place *any* factual evidence before the Court and have therefore defaulted on their opportunity to contest the accuracy, reliability, or credibility of Mr. Khalil's evidence, *see* ECF 287, 288—meaning there are no facts (let alone material ones) in dispute. Because there are no material, factual disputes outstanding, the Court may issue a preliminary injunction on the basis of Petitioner's “affidavits, and other written evidence, without a hearing.” *ADP, LLC v. Lynch*, 678 F. App'x 77, 79 (3d Cir. 2017); *see also Elliott v. Kiesenwetter*, 98 F.3d 47 (3d Cir. 1996) (holding that district court's issuance of an injunction without holding a hearing was not an abuse of discretion; alleged factual issues were not disputed in the record, or were otherwise not relevant to the Court's order).

Moreover, even if Respondents had raised a factual dispute, under Third Circuit precedent, a court may still decide a PI motion on the written filings alone where, as here, “the adverse party has waived its right to a hearing.” *Pro. Plan Examiners of New Jersey, Inc. v. Lefante*, 750 F.2d 282, 288 (3d Cir. 1984); ECF No. 287. This case therefore “fall[s] within both of the[] exceptions” to Federal Rule of Civil Procedure 65's “ordinary” “procedure.” *Lefante*, 750 F.3d at 288.

The undisputed evidentiary record before this Court and Respondents' hearing waiver supports the grant of Mr. Khalil's PI motion on the papers—including an order of release pending adjudication of the habeas petition. However, if the Court finds that resolution of any material factual dispute is necessary to grant a preliminary injunction, the Court should hold a hearing, in which Mr. Khalil would participate and, to the extent it is required, make other witnesses available.

Respectfully submitted,

/s/Liza Weisberg

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